IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR

Civil Application No.3883 of 2007
In
Writ Petition No.1432 of 2005 (Decided)

(Maharashtra State Road Transport Corporation v. Sayed Ismail s/o Haji Gaffar and another)

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police for some offences. The respondent was also driving a Commander Jeep bearing registration No.MHH-8239, belonging to his brother, for illegal transportation of passengers. Therefore, the learned Advocate submitted that the respondent should be prosecuted for filing a false affidavit. The learned Advocate for the petitioner further states that the respondent was also prosecuted for some other offences.

4. An employee is not expected to starve till his *lis* is decided in due course of time. Therefore, if the respondent did casual work on his brother's jeep, it should not disentitle him from the back wages. Back wages could be denied if a person was employed with an income in comparable range. The object of directing the respondent to file an affidavit was to ensure that he makes a responsible statement. This Court can not and need not go in factual issues. In any case, though the affidavit was filed in pursuance of orders of this Court, it was not filed in this Court and, therefore, ordinarily, action alleging its falsity would have to be initiated elsewhere.

5. It would, however, be inappropriate to throw the parties back to arena of litigation in respect of a period of time about 10 years ago. An endeavour to put an end to litigation should be made. Yet since the petitioner has made a submission that the respondent had means of livelihood, because his brother owns a Jeep on which he could have ordinarily worked, it would be sufficient if the order directing payment of back wages is modified and the petitioner is directed to pay half-the-back wages to the respondent.

6. The petitioner is, therefore, directed to pay half-the-back

wages to the respondent, with the understanding that the matter shall not be agitated further.

7. With this direction, the civil application stands disposed of.

JUDGE

pdl